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U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

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10 through his Guardian ad Litem, Gloria Blakely

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 LARRY JAMES WRIGHT, by and
14 through his Guardian ad Litem,
Gloria Blakely,

15 Plaintiff,

16 v.

17 COUNTY OF SAN BERNARDINO,
18 SAN BERNARDINO SHERIFF'S
DEPARTMENT, SHERIFF-
19 CORONER ROD HOOPS,
SHERIFF'S DEPUTIES KARI
20 KLAUS, MARK LEWIS, KEVIN
WARNER, SAN BERNARDINO
21 COUNTY PROBATION OFFICER
POINDEXTER, AND DOES 1
22 THROUGH 10, Inclusive,

23 Defendants.

CV09-7057 VBF (RCX)
Case No.

COMPLAINT FOR DAMAGES

1. 42 U.S.C. § 1983 (individual)
2. 42 U.S.C. § 1983 (entity)
3. 42 U.S.C. §§ 12131 *et seq.*
4. 29 U.S.C. § 794 *et seq.*
5. Cal. Civil Code §§ 51, 51.7, 52,
52.1 and 54

DEMAND FOR JURY TRIAL

24
25 JURISDICTION AND VENUE

26 1. This is a police misconduct action for damages pursuant to 42 U.S.C.
27 § 1983, joined with damages claims under the Americans with Disability Act (ADA)
28 and the Rehabilitation Act of 1973, as well as supplemental state claims.

1 Sheriff's Department ("SBSD"), which in turn promulgates policies and practices for
2 patrolling and policing various areas of San Bernardino County, including, but not
3 limited to, the City of Adelanto. COUNTY, through its component departments, and
4 defendant Rod HOOPS, as sheriff-coroner of San Bernardino County ("HOOPS"),
5 runs, operates, oversees, administers, supervises, and is otherwise responsible for the
6 conduct of SBSD deputies, including both acts and omissions of SBSD deputies,
7 employees, and agents and other SBSD and COUNTY workers, including probation
8 officers. HOOPS is sued herein in both his official and individual capacities. At all
9 times COUNTY possessed the power and authority to adopt policies and prescribe
10 rules, regulations and practices affecting all facets of the training, supervision, control,
11 employment, assignment and removal of individual members of the SBSD, including
12 those individuals charged with patrolling and policing the community, and to assure
13 that said actions, policies, rules, regulations, practices and procedures of the SBSD and
14 its employees and agents comply with the laws and constitutions of the United States
15 and of the State of California.

16 8. COUNTY Sheriff Deputies, Defendants KARI KLAUS, MARK LEWIS,
17 KEVIN WARNER and Defendants Does 1 through 5, inclusive ("DEFENDANT
18 DEPUTIES"), along with Defendant San Bernardino County Probation Officer
19 POINDEXTER and Does 6 through 10, inclusive ("DEFENDANT PROBATION
20 OFFICERS"), are and were at all times relevant herein, deputies officers, sergeants,
21 captains, commanders, supervisors and/or civilian employees, agents, and
22 representatives of SBSD and/or COUNTY, acting within their capacity as employees,
23 agents, and servants of Defendant COUNTY; and said Defendants, at all times alleged
24 herein, were acting within the course and scope of that employment and agency. Said
25 Defendants are sued individually and in their capacity as police officers, sheriff's
26 deputies, sergeants, captains, lieutenants, commanders, supervisors and/or other
27 officers, employees, agents or representatives for SBSD and the COUNTY.

28

9. At all times relevant herein, DEFENDANT DEPUTIES, DEFENDANT PROBATION OFFICERS their supervisors, and various sergeants, lieutenants, captains, commanders, and others in supervisory positions, were acting under color of law, under the color of the statutes, ordinances, regulations, policies, customs, practices, and usages of Defendant COUNTY, its SBSO, and the State of California.

10. At all times relevant hereto, DEFENDANT DEPUTIES and DEFENDANT PROBATION OFFICERS employed and organized unlawful and illegal customs and practices of excessive force and intentionally caused emotional distress upon innocent victims. Said misconduct was known by, encouraged, tolerated and/or condoned by Defendant COUNTY.

11. At all times relevant herein, DEFENDANT DEPUTIES and DEFENDANT PROBATION OFFICERS were acting within the course and scope of their employment as peace officers and employees of the COUNTY, which is liable under the principles of *respondeat superior* for said employees' tortious conduct pursuant to California Government Code § 815.2.

12. Plaintiff has exhausted the applicable administrative remedies for suing public entities and employees in the State of California and files this action timely.

FACTS

A. General Allegations re County and SBSD Policies and Practices

13. Plaintiff is informed and believes, and on the basis of such information and belief alleges, that COUNTY and SBSB, with deliberate indifference, gross negligence, and reckless disregard to the safety, security, and constitutional and statutory rights of Plaintiff and all persons similarly situated, maintained, enforced, tolerated, permitted, acquiesced in, and applied policies, practices, or customs of, among other things,

a. Not training SBSB deputies and officers in the signs and symptoms of individuals with TBI or other mental disabilities, training deputies that what appears to be inappropriate behavior by an individual with TBI or other mental

1 disability might in fact be unintended or unconscious movement, actions or
2 conduct, training deputies that individuals with TBI or other mental impairments
3 may have extreme difficulty in interacting with other people including
4 interactions with sheriff's deputies, training deputies that individuals with TBI
5 or other mental impairments may have extreme difficulty understanding and
6 following commands and directions, training deputies that they should not
7 summarily arrest individuals with TBI or other mental impairments, and then
8 charge them with crimes without taking into account the disability and the
9 behavioral problems it engenders, and training officers that they should not use
10 fists, boots, metal ASP batons, TASER electronic control devices (ECDs) and
11 other potentially lethal, or excruciatingly painful, uses of force to control
12 helpless individuals with TBI or another mental impairment.

13 b. Unreasonably subjecting persons, including individuals with TBI, to metal
14 ASP batons, closed fists, kicks, chemical agents, ECD shocks, and other forms
15 of unreasonable or excessive force;

16 c. Subjecting persons, including individuals with TBI to unreasonable
17 criminal investigations, interrogations and false arrest to cover up uses of
18 excessive force;

19 d. Selecting, retaining, and assigning deputies and officers with
20 demonstrable propensities for excessive force, false arrest, and other
21 misconduct;

22 e. Failing to adequately train, supervise, and control officers in the arts of
23 law enforcement, including dealing with individuals with TBI and other mental
24 impairments;

25 f. Failing to adequately investigate and discipline deputies and officers
26 involved in misconduct; and

27 g. Condoning and encouraging deputies in the belief that they can violate the
28 rights of persons such as Plaintiff in this action with impunity, and that such

1 conduct will not adversely affect their opportunities for promotion and other
2 employment benefits.

3 14. Plaintiff is informed and believes and thereupon alleges that the official
4 policy makers for the SBSB knew or reasonably should have known that SBSB
5 deputies and officers use ASP batons and ECDs improperly, and otherwise use
6 excessive force against individuals, including mentally disabled people such as
7 plaintiff, and then investigate them and arrest them and charge them with crimes, all
8 without probable cause, to cover up for misconduct. Despite this knowledge,
9 defendants failed to take any steps to remedy these violations of constitutional and
10 statutory authority, as well as of the SBSB's own written policies, through adequate
11 hiring, training, supervision and monitoring. In so doing, defendants COUNTY and
12 SBSB exhibited deliberate indifference to the constitutional rights of Plaintiff and
13 others similarly situated.

14 15. Plaintiff is informed and believes, and on the basis of such information
15 and belief alleges, that defendants COUNTY and SBSB authorized, acquiesced in,
16 tolerated, or permitted other defendants herein to engage in the unlawful and
17 unconstitutional actions, policies, practices, and customs set forth in the preceding
18 paragraphs. Defendants' conduct as alleged herein constitutes a pattern of
19 constitutional violations based either on a deliberate plan by defendants or on
20 defendants' deliberate indifference, gross negligence, or reckless disregard to the
21 safety, security, and constitutional and statutory rights of Plaintiff.

22 **B. The Incident.**

23 16. Plaintiff, who is an adult in his thirties, was born a relatively healthy,
24 normal child. When Plaintiff was approximately 9 months old, however, he was
25 ejected from an automobile in a collision and suffered a traumatic brain injury
26 rendering him severely mentally disabled. As Plaintiff grew, he was enrolled in special
27 education classes and was even involved in the Special Olympics. Due to Plaintiff's
28 disability, he is unable to care of himself and therefore, lives with his mother/Guardian

1 ad Litem, Gloria Blakely. He has the cognitive abilities and demeanor of a young
2 child. He is very sweet but incapable of processing information as would an older child
3 or adult.

4 17. Due to Plaintiff's severe mental disability but gentle and happy demeanor,
5 he is relatively well known and liked the local community where he resides. In fact,
6 Plaintiff was and is known to the local patrolling SBSB deputies and used to exchange
7 waves with them as they drove by in their patrol vehicles.

8 18. On or about September 12, 2008, DEFENDANT DEPUTIES and
9 DEFENDANT PROBATION OFFICERS, implementing a plan to conduct random,
10 warrantless searches, arrived outside of Plaintiff's home to search the residence he
11 shares with his mother, Gloria Blakely. Defendants could do so without a warrant
12 because at the time Ms. Blakely was enrolled in a substance abuse and rehabilitation
13 program under the Substance Abuse and Crime Prevention Act, also known as
14 Proposition 36. Under the terms of this program, Ms. Blakey was required to submit
15 to search of her residence.

16 19. When signing up for the Proposition 36 program, Gloria Blakely notified
17 the SBSB Probation Department that she was the caretaker for, and lived with Plaintiff,
18 and specifically notified the SBSB probation department that Plaintiff suffered from
19 a severe mental disability.

20 20. When DEFENDANT DEPUTIES and DEFENDANT PROBATION
21 OFFICERS arrived at the residence, they knocked on the front door but there was no
22 answer. DEFENDANT DEPUTIES and DEFENDANT PROBATION OFFICERS
23 began to circle the residence with guns drawn, pounding on windows and yelling
24 inside. Plaintiff was inside the residence. He followed his mother's instructions not to
25 open the door for anyone, as his mother was not home at the time.

26 21. As DEFENDANT DEPUTIES and DEFENDANT PROBATION
27 OFFICERS continued to pound on the windows with guns drawn and threaten entry,
28 a neighbor told them to be careful because there was a "retarded man" or a "mentally

1 handicapped man” who lived inside. In response, DEFENDANT DEPUTIES and
2 DEFENDANT PROBATION OFFICERS yelled obscenities at the neighbor and
3 ordered in to go back inside his residence or be arrested.

4 22. DEFENDANT DEPUTIES and DEFENDANT PROBATION OFFICERS
5 rushed into the house, where they yelled verbal commands at Plaintiff which Plaintiff
6 was unable and did not understand.

7 23. DEFENDANT KLAUS then attempted to handcuff Plaintiff by repeatedly
8 grabbing Plaintiff’s arm, but Plaintiff did not understand that he was being arrested
9 even when told so by DEFENDANT KLAUS. DEFENDANT KLAUS became
10 enraged and began beating Plaintiff, striking his left side numerous times, and
11 delivering powerful blows to Plaintiff’s right stomach area with his knee.
12 DEFENDANT LEWIS also became enraged and beat Plaintiff, grabbing his left arm
13 and striking Plaintiff in the back of his knee. DEFENDANT WARNER joined in, and
14 by his own admission struck Plaintiff in the stomach and side with his right knee seven
15 times. DEFENDANT DEPUTIES and DEFENDANT PROBATION OFFICERS were
16 hitting and striking Plaintiff with such force that one of the kicks missed Plaintiff and
17 made a hole in the wall. Furthermore, DEFENDANT WARNER deployed his TASER
18 into Plaintiff’s back, shocking Plaintiff repeatedly. DEFENDANT WARNER
19 continuously shocked Plaintiff with the TASER as the other DEFENDANT DEPUTIES
20 AND DEFENDANT PROBATION OFFICERS tackled Plaintiff to the floor.
21 DEFENDANT WARNER used his ASP baton and, by his own admission, struck
22 Plaintiff in the side and shoulder area eight times as DEFENDANTS KLAUS AND
23 LEWIS continued to hit Plaintiff. Moreover, DEFENDANT WARNER struck
24 Plaintiff’s head above the hairline with his ASP baton.

25 24. As if DEFENDANT DEPUTIES AND DEFENDANT PROBATION
26 OFFICERS had not violated Plaintiff enough, DEFENDANT DEPUTIES AND
27 DEFENDANT PROBATION OFFICERS instructed Plaintiff not to tell anyone what
28 happened but instead, state that he had fallen down the stairs of the residence.